REMARKS

This responds to the Office Action mailed on October 9, 2007.

No claims are amended, canceled or added in this response; as a result, claims 1-34 remain pending in this application.

Interview Summary

Applicant thanks Examiner **Jeffrey Wong** for the courtesy of a personal interview on **February 21, 2008** with Applicant's representative **Rodney Lacy.** Aspects of a game rules script were discussed. No agreement regarding the status of the claims was reached.

§102 Rejection of the Claims

Claims 1-3, 6-7, 9-19, 22-23, 25-28, 31 and 34 were rejected under 35 U.S.C. § 102(b) for anticipation by WinPoker (Bob Dancer's WinPoker). A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *M.P.E.P § 2131.* To anticipate a claim, a reference must disclose every element of the challenged claim and enable one skilled in the art to make the anticipating subject matter. *PPG Industries, Inc. V. Guardian Industries Corp.*, 75 F.3d 1558, 37 USPQ2d 1618 (Fed. Cir. 1996). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.,* 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, "[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). Applicant respectfully submits that claims 1-2 as amended contain elements not found in Walker.

Applicant does not admit that Bob Dancer's WinPoker is prior art. While WinPoker may predate Applicant's filing date, the Office Action does not state which version or a date that the WinPoker program was available. Applicant respectfully requests that the next Office Action provide a reference date or version number for the WinPoker program so that Applicant may determine if the WinPoker program is in fact prior art.

Further, Applicant respectfully submits that even if the WinPoker program is proper prior art, WinPoker does not anticipate Applicant's claims because WinPoker does not disclose each and every element of Applicant's claims 1-3, 6-7, 9-19, 22-23, 25-28, 31 and 34.

For example, claims 1 and 26 recite "receiving a game rules script, the game rules script defining a set of winning outcomes." A script comprises text defining a set one or more rules to define a set of one or more winning outcomes in terms of a set of symbols. Fig. 4 merely shows that a player may choose a pay table for a set of winning outcomes that have already been defined in the code, the program does not appear to read a game rules script in order to determine how the symbols define various winning outcomes. Rather the symbols defining a winning outcome appear to be predetermined in the WinPoker code, and a user may use the mechanism described in Fig. 4 to select a pay table defining pay amounts for the various predefined winning outcomes.

Additionally, claims 1 and 26 recite parsing a game rules script. Parsing involves reading text and dividing the text into components that may be used by a method. As recited in the claims, the game rules script is parsed into a game rules data structure. Nothing in the Figures provided by the Office Action show any parsing activity.

In view of the above, WinPoker does not disclose receiving a game rules script or parsing a game rules script, and therefore does not disclose each and every element of claims 1 and 26. As a result, WinPoker does not anticipate claims 1 or 26. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 1 and 26.

Claims 2-3, 6-7, and 9 depend from claim 1 and claims 27-28, 31 and 34 depend from claim 26. These dependent claims inherit the elements of their respective base claims and are therefore allowable for at least the same reasons as discussed above regarding their respective base claims. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 2-3, 6-7, 9, 27-28, 31 and 34.

Claim 10 as amended recites a game rules script on a computer-readable medium where the game rules script includes text defining a set of winning outcomes. The Office Action again relies on Fig. 4 and asserts that Fig. 4 discloses a set of rules for each winning outcome. As discussed above, Fig. 4 merely discloses a way to select differing pay tables for predefined winning combinations, nothing in Fig. 4 nor any other portions of WinPoker discloses the ability

to use a game rules script to define symbols that make up a winning outcome. As a result, WinPoker fails to disclose each and every element of claim 10. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claim 10.

Claims 11-16 depend from 10 and therefore inherit the elements of claim 10 in addition to providing further patentable distinctions. Claims 11-16 are therefore allowable for at least the same reasons as discussed above regarding base claim 10.

Claim 17 is a system claim that recites a system that includes a game rules script and a parser that parses the game rules script. As discussed above with respect to claims 1 and 26, WinPoker does not disclose a game rules script and does not disclose parsing a game rules script. As a result, WinPoker does not disclose each and every element of claim 17. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claim 17.

Claims 18-19, 22-23 and 25 depend from claim 17 and therefore inherit the elements of claim 10 in addition to providing further patentable distinctions. Claims 18-19, 22-23 and 25 are therefore allowable for at least the same reasons as discussed above regarding base claim 17.

§103 Rejection of the Claims

Claims 4-5, 8, 20-21, 24, 29-30 and 33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over WinPoker as applied to claim 1 above, and further in view of Mikohn ("Mikohn Gaming Introduces Yahtzee Slot Machine"). The determination of obviousness under 35 U.S.C. § 103 is a legal conclusion based on factual evidence. *See Princeton Biochemicals, Inc. v. Beckman Coulter, Inc.*, 411 F.3d 1332, 1336-37 (Fed.Cir. 2005). The legal conclusion that a claim is obvious within § 103(a) depends on at least four underlying factual issues set forth in *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17, 86 S.Ct. 684, 15 L.Ed.2d 545 (1966). The underlying factual issues set forth in *Graham* are as follows: (1) the scope and content of the prior art; (2) differences between the prior art and the claims at issue; (3) the level of ordinary skill in the pertinent art; and (4) evaluation of any relevant secondary considerations.

The Examiner has the burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir.1988). To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested, by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) ;

M.P.E.P. § 2143.03. "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970) ; M.P.E.P. § 2143.03. As part of establishing a *prima facie* case of obviousness, the Examiner's analysis must show that some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead an individual to combine the relevant teaching of the references. *Id.* To facilitate review, this analysis should be made explicit. *KSR Int'l v. Teleflex Inc., et al.*, 127 S.Ct. 1727; 167 L.Ed 2d 705; 82 USPQ2d 1385 (2007) (citing *In re Kahn*, 441 F. 3d 977, 988 (Fed. Cir. 2006)).

Each of claims 4-5, 8, 20-21, 24, 29-30 and 33 depends from a claim that recites a game rules script. As discussed above, WinPoker does not teach or suggest a games rules script, nor does WinPoker teach or suggest parsing a game rules script. Applicant has reviewed Mikohn and can find no teaching or suggestion of a game rules script or parsing a game rules script. As a result, the combination of WinPoker and Mikohn fails to teach or suggest each and every element of Applicant's claims 4-5, 8, 20-21, 24, 29-30 and 33. Therefore there are differences between the cited references and the claims at issue. As a result, claims 4-5, 8, 20-21, 24, 29-30 and 33 are not obvious in view of the combination of WinPoker and Mikohn. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 4-5, 8, 20-21, 24, 29-30 and 33.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as

manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6954 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date March 10, 2008 By _____
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this _10th__ day of March 2008.

Rodney L. Lacy _____

Name Signature